GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Sri Neelam Venkata Rao S/o.(Late) Ramulu R/o.Kamarajupeta (V), Gokavaram (M), E.G.District against the orders of the Additional Agent to Government Rampachodavaram, dt.24.7.04 in CMA No.32/2003 with regard to Acs.4.20cts in R.S.No.69 at Yamanapalli Village, Gangavaram Mandal, East Godavari District - Dismissed- Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 106 Dated: 16-11-2016
Read the following:-

1. Revision Petition filed by Sri Neelam Venkata Rao S/o.(Late) Ramulu R/o.Kamarajupeta (V), Gokavaram (M), E.G.District dated: 15.03.2005.
2. Govt.Memo.No.3158/LTR-2/2005, dt.19.04.2005.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District R.C.No.T8/Memo.No.3158/Ltr-2/2005, Dated: 19.4.2005, in C.M.A.No.32 of 2003.
4. Govt.Lr.No.3158/LTR-2/2005, dt.30.04.2016.

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ORDER:-

In the reference first read above, Sri Neelam Venkata Rao S/o.(Late) Ramulu R/o.Kamarajupeta (V), Gokavaram (M), East Godavari District has filed a Revision Petition before the Government being aggrieved by the order in C.M.A.No.32/2003 dated 24.07.2004 on the file of Additional Agent to Government, Rampachodavaram which was filed against the order of LTRP No.251/2002 dated 6.05.2003 on the file of Special deputy Collector of Rampachodavaram, East Godavari District with regard to the land in Sy.No.69 of Yamanapalli village of Gangavaram Mandal, East Godavari District measuring an extent of Acs.4.20 cts.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Collector, East Godavari District, Kakinada and the Additional Agent to Government and Project Officer, ITDA, Rampachodavaram, East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The claim of the revision petitioner to the Government is to set aside the orders passed by the authorities below and to stay all the further proceedings including dispossession of the petitioner from land of Ac.4.20 cts in Sy.No.69 of Yamanapalli

village of Gangavaram Mandal, East Godavari District and to pass orders allowing his revision petition.

5. The main grounds under which the Revision Petition filed are:

1. The order under the revision is contrary to law of evidence on record.

2. The appellate authority failed to give any reasons while dismissing the appeal filed by the petitioner against the order LTRP No.251/2002.

3. The appellate authority ought to have seen that the decisions relied on it are not relevant to the facts of the case of the petitioner etc.,

6. Neelam Venkat Rao vide document 792/71 bought lands Ac.4.20 cts from seller Janappa Reddy Surya Rao (Non-Tribe). There was a sale agreement between the petitioner and the original seller.

7. The petitioner filed a case before the lower court and the lower court disallowed the contention of the appellant on the grounds that the sale agreement between Janappa Reddy and the petitioner is not genuine and fabricated. As such the Registered sale that took place between them through document Number 792/71 is absolutely null and void.

8. The lower court further held that the signature of the vendor on agreement to sale deed is entirely different. Appellant also failed to prove the valid possession.

9. The Special Deputy Collector ordered ejectment of Janappa Reddy Surya Rao from the PS land and distribution of the same to Tribes. Aggrieved by the orders of the Special Deputy Collector Nellam Venkat Rao filed an appeal to the Additional Agent to the Government.

10. In view of the above facts and law the learned Additional Agent to Government directly dismissed the appeal.

11. The orders of the Additional Agent to Government in CMA No.32/2003 dated 24.07.2004 upheld the orders of the trial court (Special Deputy Collector).

12. Aggrieved by the orders of the Additional Agent to the Government the petitioner filed the Revision petition before the Government.

13. The matter having been stood over for consideration was adjourned from time to time and finally taken up for hearing and after hearing the arguments of council for the revision petitioner on 14.05.2016 the same was reserved for judgment.

14. The sale deed is null and void because the same is executed on 20.06.1971 vide doc.No.792/71. So any transfer after 3.2.1970 in favour of anybody other than tribe is violative of Sec 3(1)(a) and hence the initiation of action under sec 3(2)(a) of said regulation is perfectly correct. The so called agreement of sale dated 9.7.1966 is the creation of the so called vendee and there was no reference of the so called sale agreement anywhere in the above Registered Sale deed much

less the terms of the so called agreement, the payment of tax vide receipt dated 15.2.1968 can't be given any weightage as, it at best speaks of possession but not of any transfer even under Regulation 1/59 permission of Agent to Government/Assistant Agent to Government is mandatory. Anyway having regard to the recitals of the sale deed it is obvious that the sale took place after 3.02.1970 that is after the commencement of regulation 1/70.

15. Hence the order of Special Deputy Collector, directing ejectment is perfectly valid and the said order is upheld by the Additional Agent to Government in Appeal.

16. Hence, there are no merits in the revision petition, more so in terms of the judgment rendered by the Hon'ble Supreme Court in Samantha's Vs State of AP & others, as reported in 1977 SUPP 2 SCR 305. The object and the intendment of the legislature is that the interest of the Schedule tribes with regard to the immovable property in the agency tracts shall be protected.

17. Further, the larger bench of Hon'ble High Court of A.P also rendered a judgment, that the regulation 1/59, as amended by regulation 1/70 is meant for protection of schedule tribes only and any deviation with regard to the immovable property in agency tracts would entail the non-tribes to eviction. The sale deed of 1971 stares at the face of the revision petitioner. And Section 54 Transfer of Property Act and Sec 17 Registration Act contemplate that the sale of immovable property of Rs.100 and above shall be by registered by instrument only.

18. Therefore the so called documents filed by the revision petitioner can't come to their rescue or can't deface or override the recitals in the sale deed.

19. The revision petition is devoid of any merits and it does not warrant any interference. In the result the revision petition is dismissed.

20. The Additional Agent to Government and Project Officer, ITDA, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

21. The original record bearing CMA No.32/2003 received from the Project Officer, ITDA, Rampachodavaram, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARTY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA

Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, (Tribal Welfare)
Rampachodavaram, East Godavari District.
Copy to:
Sri M.V.R.Prakash, Advocate, Rampachodavaram, East Godavari District – 533 288
Sri Neelam Venkata Rao S/o.Ramulu (late) R/o.Kamarajupeta (V), Gokavaram (M), E.G.District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER